

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

CHAPTER 13 CASE NO.:

KELLY L. LINVILLE

19-12333-JDW

OBJECTION TO CONFIRMATION OF FIRST AMENDED PLAN

COMES NOW the Chapter 13 Trustee, Locke D. Barkley (the “Trustee”), by and through counsel, after conducting the Section 341(a) Meeting of Creditors, reviewing the Petition, Schedules, and Statement of Financial Affairs, and files this Objection to Confirmation of First Amended Plan (the “Objection”), and in support thereof states as follows:

1. The Debtor commenced this proceeding by filing a Voluntary Petition on June 6, 2019 (the “Petition Date”). The Debtor filed a proposed First Amended Chapter 13 Plan (Dkt. #10) (the “Plan”) on July 29, 2019.

2. The Debtor is below median income and the proposed term of the Plan is sixty (60) months. The Plan does not provide for a distribution to nonpriority unsecured creditors.

3. The Debtor’s Schedules I fails to accurately report the Debtor’s current income as required by 11 U.S.C. § 521(a)(1)(B)(ii); therefore, the requirement of §1325(a)(1) is not met. Specifically, the Debtor testified at the Section 341(a) Meeting of Creditors that she has a new job.

4. The Debtor has failed to commence plan payments as required by 11 U.S.C. § 1326(a)(1).

5. The Plan fails to comply with 11 U.S.C. § 1325(a)(1). Section 3.1(a) of the Plan provides that the ongoing mortgage payments shall be paid beginning in September 2019 to Vanderbilt. However, the Trustee does not have enough funds on hand to make this disbursement

to Vanderbilt and the other creditors at confirmation due to the delay in commencement of plan payments.

6. The Debtor should timely remit all plan payments due under the Plan prior to the hearing or the case should be dismissed for failure to comply with the proposed Plan.

7. For the reasons set forth herein, the Trustee submits that Confirmation of the Plan should be denied and the case dismissed.

WHEREFORE, PREMISES CONSIDERED, the Trustee respectfully requests that upon notice and hearing that this Court enter its order sustaining the Objection. The Trustee prays for other such general and specific relief to which Trustee and this bankruptcy estate may be entitled.

Dated: August 2, 2019.

Respectfully submitted,

LOCKE D. BARKLEY
CHAPTER 13 TRUSTEE

BY: /s/ Melanie T. Vardaman
ATTORNEYS FOR TRUSTEE
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CERTIFICATE OF SERVICE

I, the undersigned attorney for the Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the Debtor, attorney for the Debtor, the United States Trustee, and other parties in interest, if any, as identified below.

Dated: August 2, 2019.

/s/ Melanie T. Vardaman

MELANIE T. VARDAMAN